



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY

JOINT COMMITTEE ON JUDICIARY

In Support of:

S.B. No. 919 (RAISED): An Act Concerning the Unauthorized Practice of Law

February 23, 2011

The Division of Criminal Justice respectfully recommends the Committee's Joint Favorable Substitute Report for S.B. No. 919, An Act Concerning the Unauthorized Practice of Law. The Division will submit to the Committee substitute language addressing a technical omission in the bill as raised. This carefully and narrowly drafted legislation protects the public from unscrupulous and unqualified individuals who would present themselves as lawyers when in fact they have never met the qualifications for admission to the bar or have been suspended or disbarred from practice. The bill recognizes that lawyers are – and must be – held to a higher standard and that those who violate the public trust and the standards of the legal profession must be severely punished.

The bill has two primary components: (1) it raises the offense of the unauthorized practice of law to the level of a felony and provides the corresponding penalties, and (2) it clarifies that the offense of the unauthorized practice of law includes engaging in the practice of law by a lawyer who has been disbarred or suspended from the practice law. Again, the bill is narrowly drawn in that it specifically states that this latter provision would not apply to a lawyer whose right to practice has been suspended solely for failing to pay the occupational tax imposed under section 51-81b. The recommended Joint Favorable Substitute would further strengthen this section so the bill also would not apply to a lawyer who is suspended solely for failing to pay the client security fund fee assessed pursuant to section 51-81d of the general statutes. In addition to these clearly drawn exclusions, it also must be stressed that this bill in no way would limit the ability of lawyers to practice as "in-house" counsel or for those who are duly licensed in other states to practice *pro hac vice* in Connecticut.

A recent case in the Judicial District of Stamford-Norwalk underscores the need for stronger penalties for the unauthorized practice of law. In this case an individual who pretended to have been admitted to the practice of law asked to be admitted *pro hac vice* in Connecticut, along with another individual posing as a Connecticut lawyer. The individual actually tried a Driving Under the Influence (DUI) case. Not only did he collect a sizeable fee for

his purported "representation," but he also convinced his "client" to pay an additional \$15,000 to be used to attempt to bribe the prosecutor and judge to help reverse the verdict. This person is not and never was admitted to the practice of law either in New York or to our knowledge anywhere else. In another Stamford case, an individual accepted retainers to represent numerous illegal immigrants in immigration proceedings. This person, also, is and never was admitted to the practice of law. The bill would increase the penalty for such conduct to the level of a class D felony -- five years incarceration and/or a fine of up to \$5,000.

The other focus of this bill is to clarify that the illegal unauthorized practice of law includes practice by a person who was in fact a lawyer but who has been disbarred or had his or her right to practice suspended or revoked for reasons other than the failure to pay the occupational tax. The need for this clarification rests in a decision issued in the Superior Court for the Judicial District of Windham that prevented the prosecution of a suspended lawyer. The individual in question was suspended from the practice of law in December 2005 but subsequently gave legal advice to and accepted money from a woman who sought legal representation. The suspended lawyer did not inform the woman of his status and in fact used a letterhead identifying himself as an attorney. In granting the defendant's motion to dismiss the unauthorized practice of law case, the Windham court found that the existing law only prohibits those who were never admitted to practice from engaging in the practice of law. It should be noted that the larceny case pending against the suspended attorney is still pending as he has left the country and has thus avoided prosecution.

S.B. No. 919 would address the circumstances of this case as well as the Stamford cases. All the bill does is state that those who never have been lawyers or who have lost the right to practice law are committing a felony if they engage in the practice of law. Simply put this is about the criminal misrepresentation that one has the legal right to practice law when that is just not the case. The Division would note that we have worked with the Connecticut Bar Association to draft the language of S.B. No. 919 to narrowly craft the bill so that its intent is perfectly clear. We would like to publicly thank the Bar Association as well as the Judicial Branch and the Chief Disciplinary Counsel for their attention to this legislation.

The Division expresses its appreciation to the Committee for its consideration of this matter. We would be happy to answer any questions or to provide any additional information the Committee might require.